

**ENTERED**

August 30, 2023

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**EXTREME TECHNOLOGIES LLC and  
HARD ROCK SOLUTIONS, LLC,**

**Plaintiffs,**

v.

**STABIL DRILL SPECIALTIES LLC,**

**Defendant.**

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**Civil Action No. 4:19-CV-01977**

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the July 5, 2023 Memorandum and Recommendation ("M&R") prepared by Magistrate Judge Peter Bray. (Dkt. No. 192). Judge Bray made findings and conclusions and recommended that Plaintiffs' Motion for Partial Summary Judgment on Defendant Stabil Drill Specialties, LLC's Patent Invalidity Affirmative Defense, (Dkt. No. 163), be granted and that Defendant's Cross-Motion for Partial Summary Judgment of No Assignor Estoppel, (Dkt. No. 169), be denied. (Dkt. No. 192).

The Parties were provided proper notice and the opportunity to object to the M&R. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). On August 1, 2023, Plaintiffs filed a Motion to Amend the Memorandum and Recommendation. (Dkt. No. 195). The Court construes this as Plaintiffs' objections. Plaintiffs assert that the M&R contained clerical errors with respect to the phrasing of the patent claims. (*Id.*). On August 2, 2023, Defendant filed objections. (Dkt. Nos. 196, 198). Defendant first argues that the M&R did not view the evidence in the light most favorable to Stabil Drill. Second, Defendant argues that the

M&R erred by finding that the claims were not materially broadened during prosecution. Finally, Defendant argues that the M&R should not have found representations of validity in certain filings and assignments of applications. (*See id.*).

In accordance with 28 U.S.C. § 636(b)(1)(C), the Court is required to “make a de novo determination of those portions of the [magistrate judge’s] report or specified proposed findings or recommendations to which objection [has been] made.” After conducting this de novo review, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.*; *see also* Fed. R. Civ. P. 72(b)(3).

The Court has carefully considered de novo those portions of the M&R to which objection was made, and reviewed the remaining proposed findings, conclusions, and recommendations for plain error. Finding no error, the Court accepts the M&R and adopts it as the opinion of the Court. It is therefore ordered that:

- (1) Magistrate Judge Bray’s M&R, (Dkt. No. 192), is **ACCEPTED** and **ADOPTED** in its entirety as the holding of the Court;
- (2) Plaintiff’s Motion to Amend the Memorandum and Recommendation, (Dkt. No. 195), and their objections are **DENIED**;
- (3) Defendant’s Objections, (Dkt. Nos. 196, 198), are **DENIED**; and
- (4) Plaintiffs’ Motion for Partial Summary Judgment, (Dkt. No. 163), is **GRANTED** and Defendant’s Motion for Partial Summary Judgment is **DENIED**.

It is SO ORDERED.

Signed on August 29, 2023.

Drew B Tipton  
DREW B. TIPTON  
UNITED STATES DISTRICT JUDGE